

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL DUANE SMITH

Case No. 05-70467

Plaintiff,

DISTRICT JUDGE
ARTHUR J. TARNOW

v.

MAGISTRATE JUDGE
R. STEVEN WHALEN

CITY OF MOUNT CLEMENS and
OFFICER STEVEN ANDREWS, in his
individual and official capacities,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [90],
DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [83],
and
DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO
LIABILITY [81]

Before the Court is the Magistrate Judge's Report and Recommendation [90], filed August 20, 2009, regarding Defendants' Motion for Summary Judgment [83] and Plaintiff's Motion for Partial Summary Judgment as to Liability [81]. The Report and Recommendation recommends that both motions be denied.

By the September 8, 2009, deadline, none of the parties had filed an objection to the Report and Recommendation. There having been no objection, and the Court having reviewed the record and being fully advised in the premises,

IT IS HEREBY ORDERED that the Report and Recommendation [90] is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment [83] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Partial Summary Judgment as to Liability [81] is also **DENIED**. This matter shall be set for trial.

SO ORDERED.

ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

DATED: _____